

## **PUBLIC ACCOUNTS COMMITTEE—ANNUAL REPORT 2017-18 HEARINGS 12 NOVEMBER 2018 AT 12.30-1.00pm**

### **BRIEFING NOTES**

#### **Location**

Committee Room 1, Ground Floor, ACT Legislative Assembly building

#### **Standing Committee on Public Accounts members**

Mrs Vicki Dunne MLA (Chair), Ms Tara Cheyne (Deputy Chair), Ms Bec Cody MLA, Ms Nicole Lawder MLA

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# 1. COMMISSION'S PRICING AND REGULATORY WORK

## 1.1 Retail electricity price regulation

### Price direction 2017-20

*2017-20 price direction:* On 7 June 2017, the Commission released its final decision and price direction for ActewAGL Retail's standing offer prices for the supply of electricity to small customers. These regulated prices apply in the ACT from 1 July 2017 for the three years until 30 June 2020.

The maximum allowed average increase in ActewAGL Retail's regulated prices for 2017-18 was 18.95 per cent. The single biggest driver of the increase in electricity prices was the substantial jump in the forward prices of wholesale electricity contracts (which increased by 112.36 per cent from May 2016 to May 2017).

*Annual price recalibration 2018:* The price direction provides for an annual recalibration of prices. On 7 June 2018, the Commission released its annual update of the regulated retail prices. The Commission's decision set the maximum average nominal increase in ActewAGL Retail's basket of regulated tariffs for 2018-19 at 14.29 per cent. This is a real increase (excluding inflation) of 12.16 per cent. The main factors behind the increase are:

- Higher wholesale electricity purchase costs contribute more than half of the total retail price increase—The Commission's method of smoothing out large changes in wholesale prices means that ACT retail prices have not increased as much as in other parts of Australia. But there is now a 'catch-up' in retail prices in the ACT as the wholesale price increases that happened in 2017 continue to flow through into retail prices.
- The national green schemes administered by the Clean Energy Regulator contribute more than a third of the total retail price increase—Higher costs for these schemes are mainly due to greater than expected take-up of residential solar energy.

Around 87 per cent of total costs are determined outside of ActewAGL Retail's control and are therefore not subject to the Commission's oversight. These include electricity purchase costs, green scheme costs and network costs.

Of the costs that are subject to the Commission's oversight:

- Retail operating costs—ActewAGL's retail operating costs will fall by 4.42 per cent in 2018-19.
- 'Power of Choice' (metering) costs—The Commission did not accept ActewAGL Retail's request to pass-through in 2018-19 their full costs of complying with the Australian Energy Market Commission's 'Power of Choice' regulatory changes. The Commission decided that the capital costs of investing in upgrading systems should be recovered over their asset life of five years, consistent with established regulatory practice. The Commission's decision means that these costs add 0.47 percentage

points to retail prices in 2018-19, rather than the 2.14 percentage point impact implied by ActewAGL Retail's request.

The Commission's decision incorporates an increase of \$1.04 per MWh in 2018-19 to account for costs associated with implementing the national 'Power of Choice' regulatory changes. These changes were initiated by the Australian Energy Market Commission to encourage competition in the provision of metering services. The Power of Choice changes required retailers to make a number of changes to the existing billing systems and procedures for small customers.

- Retail margin—In making the Price Direction for 2017-20, the Commission reduced the retail margin from 6.04 to 5.3 per cent, which was the bottom of the range of reasonable retail margins based on a comparison of retail margins for similar utilities. It did not include a 'competition allowance' as requested by ActewAGL to cover the costs of competing for customers (on top of reasonable marketing, advertising and administration costs).

### **Retail electricity model and methodology review**

The Commission is currently undertaking a review of its pricing model and methodology for the supply of electricity to small customers on ActewAGL Retail's regulated tariffs. The review seeks to ensure that the Commission's pricing model is accurate, reflects current market conditions and retailer practices, and is consistent with the Commission's obligations under the *Independent Competition and Regulatory Commission Act 1997* in setting prices from 1 July 2020.

The review was established as a reset principle in the Commission's 2017–20 Price Direction for standing offer prices for the supply of electricity to small customers.

The Commission released an issues paper on 15 October 2018. Submissions are due on 16 November 2018.

Some of the components in the pricing model are effectively outside the Commission's regulatory control. These include network costs (which are set by the AER), the national green schemes administered by the Clean Energy Regulator (which are set by federal Government policy), and the ACT Government's Energy Efficiency Improvement Scheme (EEIS, which is ACT Government policy).

The two most significant cost components that fall within the Commission's regulatory oversight are:

- some aspects of energy purchase costs—While energy purchase costs are determined within the National Electricity Market (NEM), decisions must be made on data sources, appropriate allowances for high price volatility, when the retailer would purchase energy, how green costs are considered, and how all these components are mathematically integrated into a cost allowance. The Commission has engaged a consultant, Frontier Economics, to assist it in assessing its cost methodology.

- retail costs (operating costs and the retail margin)—The methodology to estimate retail costs includes decisions on appropriate allowances for a retail margin, billing costs, administration and retail competition activities. The Commission intends to consider findings from the recent ACCC retail electricity inquiry, the AER’s default offer pricing work, pricing approaches in other jurisdictions (including Victoria), and other relevant information.

The Commission will consult extensively during the review including on the issues paper and its draft report. The draft report will provide a non-technical summary of the Commission’s draft decision for public consultation. The Commission intends to hold a public hearing following the release of the draft report to assist stakeholders in making submissions and providing feedback.

The Commission expects to release its final report in May 2019 on the model and methodology the Commission proposes to use for the next price investigation.

Conducting the model and methodology review before the next price investigation into regulated retail prices to apply after 1 July 2020 will smooth out the workload for the Commission, ActewAGL and other stakeholders and thus support greater stakeholder involvement in the review. It will also allow the next price investigation, and stakeholder submissions, to focus on the cost inputs to the model.

## **1.2 Water and sewerage services price regulation**

### **Price direction 2018-23**

On 1 May 2018, the Commission released its final decision and price direction for regulated water and sewerage services prices, which determines the amount of revenue Icon Water can earn, and the prices it can charge, over the period 1 July 2018 to 30 June 2023.

Under the Commission’s final decision, prices will be lower than initially proposed by Icon Water in June 2017. The lower prices result from efficiencies in Icon Water’s planned operating and capital expenditure, lower interest rates and the Commission’s decision on how to calculate the return on Icon Water’s capital investments.

ACT consumers will pay less for water and sewerage services in 2018–19 and prices will rise in line with expected inflation for the rest of the regulatory period.

The Commission’s final decision means that the amount of revenue Icon Water can earn from water and sewerage tariffs (the net revenue requirement) is \$1,547 million over the five-year regulatory period. This is 3.2 per cent lower than Icon Water’s initial proposal of \$1,598 million.

The final decision allows for a small rebalancing of tariffs to better reflect Icon Water’s underlying cost structure whilst remaining consistent with the Commission’s social and environmental objectives.

## **Reset principles**

In addition to the annual price resets, the Commission will conduct three reviews during the regulatory period:

- a review of potential incentive mechanisms for the regulation of Icon Water. The incentive mechanisms may include additions to the regulatory framework to address service standards, capital expenditure and/or operating expenditure;
- a review of calculation methodologies for the weighted average cost of capital that may be used in the next price investigation; and
- a review of methodologies for forecasting water demand that may be used in the next price investigation.

### **1.3 Container Deposit Scheme price monitoring**

On 4 April 2018, the Commission received a reference from the ACT Government to monitor and report on the impact on ACT beverage prices and competition in the ACT beverage industry of the introduction of the ACT Container Deposit Scheme (CDS) from 30 June 2018.

The Commission has been asked to monitor the impact of the CDS from 1 June 2018 to 30 June 2019. The terms of reference ask the Commission to monitor:

- the effect of the CDS on prices of beverages supplied in specified types of containers in the ACT;
- the performance and conduct of beverage suppliers in the ACT before and after the implementation of the Scheme; and
- any other market impacts from the implementation of the Scheme;

and to make any recommendations for actions by Government to address any adverse effects or behaviours arising from the operation of the Scheme.

The Commission released an issues paper on 5 July 2018, and will release a progress report with draft findings and recommendations in February 2019 and a final report in July 2019 (as required by the Terms of Reference).

The Commission will seek stakeholder and public feedback through formal submissions, online comment through the Commission website, and a public hearing planned for early 2019.

The Commission is currently consulting with beverage suppliers and retailers to obtain data and other information to assist it in monitoring prices and the impacts of the scheme on prices, competition and beverage supplier behaviours. The Commission is also inviting submissions and other feedback from interested parties, including consumers, beverage suppliers and retailers, through its website at any time during the investigation.

*Expected impact on beverage prices from the introduction of the CDS*

The prices that the Scheme Coordinator charges the beverage manufacturer are dependent on the number of containers returned, and are updated on a quarterly basis. The more containers returned, the greater the refunds paid and therefore the higher the cost of the scheme. There is also an administrative cost and GST component for the beverage industry and retailers to recover.

The Commission will look for any evidence of excessive price increases, including considering any reports from ACT consumers. The aim of the price monitoring is to ensure that beverage suppliers and retailers are only increasing their beverage prices in line with the published ACT CDS cost.

Beverage suppliers may increase prices to recover the charges determined by the Scheme Coordinator. However, there are a number of other factors that influence the prices charged by beverage suppliers, such as beverage production costs and discounting practices, and prices will not necessarily change immediately or by the exact amount of the charges.

Not all beverage containers are included in the CDS (such as wine bottles) and their prices will not be affected by the CDS.

*IPART findings on NSW CDS price and competition impacts*

In September, IPART released a draft report on its findings for the first nine months of the NSW scheme (November 2017 to July 2018).

The design of the ACT CDS differs in important respects from the NSW CDS and therefore some of the concerns identified by IPART in NSW are unlikely to apply in the ACT.

IPART found that average prices of all eligible container beverages increased by 7.5 per cents per container due to the introduction of the CDS, which was less than the average direct cost of the scheme of 9.2 cents per container over the nine month period.

The average price increases varied across beverage categories, being 9.5 cents for non-alcoholic beverages (soft drinks, bottled water and fruit juice) and 5.4 cents for alcoholic beverages (beer, ready-to-drink and cider). IPART found that alcoholic beverage suppliers appear to have chosen to only pass on the CDS costs in their promotional prices but not in their non-promotional prices, reflecting competition in that market.

In regard to competition impacts and supplier behaviour, IPART found no specific evidence that the scheme has resulted in a material reduction in competition, changes in total beverage supply in NSW, or changes in market share between large and small suppliers. However, some issues (listed below) have the potential to reduce the competitiveness of some suppliers, particularly smaller business and boutique beverage suppliers.

The issues identified by IPART, and their recommendations, are:

- Undesirable volatility in CDS costs and beverage prices—IPART recommends billing suppliers for direct CDS costs in arrears, rather than in advance, which will reduce the need for ‘true-ups’. The cashflow implications for Exchange for Change would be addressed by a NSW Government guarantee for an overdraft facility for Exchange for Change.
- Cashflow impacts on suppliers of the 7-day payment terms for charges determined by the Scheme Coordinator—IPART recommends moving to 30 day terms.
- Cost and cashflow impacts on beverage manufacturers of the \$80 approval fee for each class of container—IPART recommends reducing the fee to \$13.70, with no expiry of the approval.
- Cross border issues—IPART found a significant impact on suppliers at the NSW/Victorian border. The NSW Government introduced a temporary assistance package for small to medium sized businesses in the border region that had been adversely affected by competition from Victoria.

Our early analysis of these recommendations in the ACT context are that:

- It is too early to tell whether the ACT CDS is subject to the same volatility as the NSW scheme.
- The cashflow impacts on ACT beverage suppliers are expected to be lower than in NSW because suppliers are invoiced in the month of supply while NSW suppliers are invoiced a month in advance of supply, but ACT suppliers are likely to prefer an arrears payment system.
- The ACT scheme does not impose separate container approval fees as it recognises approvals granted by Australian states.
- IPART did not find significant concerns about competition impacts at the NSW/ACT border or NSW/Queensland border, possibly because the ACT and Queensland had either introduced or were introducing their own CDS. (The Queensland scheme started on 1 November 2018.)

## **1.4 Utilities Act licensing, fees and levies and industry codes**

### **Utility Licence Annual Reports (ULAR)**

In August 2018, the Commission released its monitoring report on the 2016-17 reports submitted by licensed utilities operating in the ACT (Icon Water, Evoenergy Electricity, Evoenergy Gas, TransGrid, and EAPL) in relation to the exercise of their functions under the Utilities Act and compliance with the conditions of their licences.

Based upon information provided by licensed utilities and monitoring by the Commission throughout the year, there were no material breaches of the licence, and no major instances of non-compliance with the Utilities Act or industry codes in 2016–17. However, the Commission considers that the performance metrics reported by the utilities, including in relation to customer complaints, provide a

useful source of information for identifying actions to improve performance over time.

The Commission is currently processing the 2017-18 utility reports. We expect to release our monitoring report in mid-2019.

To assist the utilities in providing timely and informative reports on their activities and compliance with licence obligations, the Commission has developed a new guideline and assessment framework. Early indicators are that the guideline and assessment framework are creating the necessary incentives for the utilities to respond in a timely manner and provide complete and accurate data.

The utilities' reports for 2017-18 at this early stage indicate business as usual, although it is worth noting that customer complaints have fallen significantly for electricity distribution from 1,113 in 2016-17 to 691 in 2017-18 (with 2017-18 being the current reporting year).

### **Annual Utility Licence Fees**

Licensed utilities (Icon Water, TransGrid and EAPL) pay an annual utility licence fee. The cost of regulating the licensed utilities for the ACAT, Technical Regulator and the Commission form the costs recovered by the licence fee. Licence fees for 2018-19 have been determined by the Commission, and have been paid by all utilities for the year.

Compared to 2017-18, EAPL's licence fee has remained stable at around \$4000 for 2018-19. TransGrid's fee has decreased from \$78,195 to \$42,377. Icon Water's fee increased from \$814,506 in 2017-18 to \$930,156 in 2018-19; this was a significant decrease on the fee paid in 2016-17 of \$1,249,362.

The annual fees paid vary annually according to the relevant workload involved in regulating the utility for the year and also on the over- or under-recovery adjustment in the fee for the previous year's determination.

### **Energy Industry Levy**

The levy is paid annually by all energy retailers and distributors (gas and electricity). As with the annual utility licence fee, the cost of regulating the energy retailers and distributors for the ACAT, Technical Regulator and the Commission form the costs recovered by the levy. Comparing 2017-18 to 2018-19, the following observations can be made:

- National costs have increased from \$546,758 (actual) in 2017-18 to \$631,650 (estimated) for 2018-19. National regulatory costs comprise annual costs to the Territory of meeting its national regulatory obligations. The costs relate to the regulatory work of the AEMC and the COAG EC.
- Local costs have increased from \$2,711,070 (actual) in 2017-18 to \$3,176,125 (estimated) for 2018-19. The increase mainly reflects retail electricity regulatory work by the Commission on reviewing its model and methodology in advance of the next price investigation. The local

regulatory cost for a year is determined by the Levy Administrator to be the cost to the Territory of providing regulatory activities in relation to safety, technical operations, consumer service and environmental behaviour for energy utility services and the administration of the levy.

As of 30 June 2018, there were 16 electricity retailers, three gas retailers, one electricity distributor and one gas distributor operating in the ACT.

### **Licensing activity**

In 2017-18, ActewAGL Distribution (as it was referred to at the time) sought a minor amendment to its gas and electricity distribution licences for a trading name change to Evoenergy. TransGrid also notified the Commission of changes to its shareholder structure as it was required to do under its utility licence.

### **Consumer Protection Code**

The Commission has commenced a review of the Consumer Protection Code. The Code was last reviewed in 2012, with amendments made in anticipation of the National Energy Customer Framework (NECF) coming into effect from July of the same year. The Code was amended to remove most of the provisions applicable to energy retailers as regulatory responsibility for these utilities was handed to the AER under the National Energy Retail Law. The majority of provisions in the Code now apply only to water and sewerage services.

The Commission is undertaking a holistic review of the Code and seeking community and stakeholder views and feedback on issues that may require addressing in a revised Code, as well as making general updates for clarity and readability. The review includes comparisons between the minimum service standards and consumer protections in the ACT and other jurisdictions. The specific objectives of the review include ensuring:

- consumer protections (including minimum service standards) are appropriate, meaningful and support the objectives of the Utilities Act;
- where possible and appropriate, the Code complements the NECF;
- the Code is accessible and easy to understand by all stakeholders; and
- proposed Code changes do not discourage retail energy competition in the ACT.

Some of the issues that have been brought to the Commission's attention to date which are being considered include:

- customer awareness of the Code and availability of rebates;
- no current requirement for hardship policies (particularly for water);
- aligning undercharging provisions to the NECF; and
- electricity reliability minimum service standards.

The Commission anticipates releasing an issues paper in late November 2018. A draft decision and draft revised Code are currently proposed to be released in March 2019, with the final decision and final code planned for mid-2019.

The Queensland Competition Authority, ESCOSA, and Victorian Essential Services Commission have recently undertaken or are undertaking similar reviews of minimum standards schemes (for electricity only). The ERAWA recently reviewed its Code of Conduct.

## 2. Possible Q&As

### Utility prices—trends and possible future developments

*Question:* Utility prices are a big issue for households. What have been some of the main trends or developments in the sector over the past year and what impact are these likely to have on prices in the future?

*Possible answer:*

The Commission recognises that utility price increases place pressure on household budgets and on business finances. In making regulatory decisions on utility prices, the Commission balances economic, social and environmental considerations, as required by the ICRC Act.

The Commission aims to balance the impact on consumers of price increases with ensuring that the regulated businesses are able to recover their efficient costs and invest to provide reliable utility services into the future.

Water and sewerage service prices: The Commission's 2018 decision on prices for water and sewerage services will result in lower bills for most ACT consumers in 2018-19, with annual bills then expected to increase roughly in line with inflation for the rest of the regulatory period to 2023.

A typical household is expected to see a fall of 3.5 per cent in their annual bill for 2018-19 (or about \$42), and then increase by about 2 per cent annually over the next four years.

Annual bills for non-residential customers will fall by between 1.8 and 8.7 per cent in 2018–19, depending on water usage and the number of billable fixtures. Over the entire 2018–23 regulatory period, these bills will increase by between 0.4 per cent and 3.6 per cent.

(See Tables 1 and 2 in Attachment B for estimated prices and bills.)

The Commission's final decision results in prices that are lower than initially proposed by Icon Water in June 2017. The lower prices result from efficiencies in Icon Water's planned operating and capital expenditure, lower interest rates, and the Commission's decision on how to calculate the return on Icon Water's capital investments.

As a result of the Commission's final decision, the combined water and sewerage services bills payable by a typical residential consumer in the ACT will remain lower than the average of comparable jurisdictions. (See Table 3 in Attachment B.)

Electricity prices: The Commission's annual update of regulated retail electricity prices for 2018-19 set the maximum average increase in ActewAGL's basket of tariffs at 14.29 per cent. For consumers on standing offers, this will result in an increase of up to \$299 in the annual bill (or about \$5.73 a week) for a typical Canberra household consuming about 8,000 kWh per year.

This increase followed a maximum increase of 18.95 per cent in regulated retail electricity prices for 2017-18.

Despite the increase in regulated retail prices, electricity bills for ACT residential customers will remain among the lowest in Australia. (See Figure 1 in Attachment A.)

The Commission's method of smoothing out large changes in wholesale prices means that ACT retail prices did not increase as much as in other parts of Australia over 2017. But there has been a 'catch-up' in retail prices in the ACT as the wholesale price increases that happened in 2017 continued to flow through into retail prices.

The Commission does not make forward projections of electricity prices in later years.

However, if energy purchase costs, network costs and national green costs—which together comprise around 87 per cent of the total cost of supplying electricity in the ACT—were to remain at around current levels, retail prices would be expected to be stabilise:

- Wholesale purchase costs have fallen from the 2017 peak, although they continue to be substantially above historical averages. The 'catch-up' for wholesale price rises in 2017 will have worked their way through retail prices by mid-2019.
- Costs associated with green energy, determined by the Clean Energy Regulator, are substantially above historical averages due to a high uptake of rooftop solar by Australian households, which appears to be continuing.
- Network (distribution) costs are set by the Australian Energy Regulator. A recent draft decision for the ACT distributor Evoenergy will see these costs remain relatively stable for the near future.

(See Figure 2 in Attachment A for cost components and Figure 4 for ASX futures market data for wholesale energy prices July 2016 to September 2018 (\$/MWh).)

The Commission notes that there are a range of different retail electricity plans in the market and consumers should talk to their retailer about whether they are on the right electricity plan for their circumstances. Consumers should also seek assistance if they need it. For example, the ACT Government has a number of programs to help consumers reduce their electricity bills and assist consumers in financial difficulties. ActewAGL offers support to customers struggling to pay their energy bills, including vouchers to customers in need and funding for counsellor assistance through Care Financial Counselling Services.

Gas prices: The Commission has no role in regulating or monitoring residential gas prices in the ACT.

The ACCC's July 2018 interim report on gas supply arrangements in Australia indicated that no supply shortfall and associated price spike was expected in 2019, but this forecast of relatively stable prices is dependent upon anticipated demand.

### **Electricity prices—impact of federal policies**

*Question:* During the year we saw several different policy proposals from the Commonwealth on energy policy, including the National Energy Guarantee which was nearly concluded but then collapsed. What impact do you think a lack of clear energy policy at the Commonwealth level will have on the sector and particularly prices for households?

*Possible answer:*

The ACCC's final report on its retail electricity pricing inquiry found a number of reasons for high prices in the sector, including concentration in wholesale and retail markets, poor policy and regulatory design at national and state levels over an extended period of time, and inconsistent and confusing marketing of retail offers. The ACCC made a number of recommendations to improve affordability outcomes in the sector.

In October 2018, the Australian Government asked the AER to begin developing a default market offer price and a reference bill.

Based on the ACCC's report, the Commission expects the default price will not apply in jurisdictions, including the ACT and Tasmania, where standing offer retail electricity prices for small customers are already regulated by the jurisdictional regulator. Electricity bills for residential customers on standing offers in the ACT and Tasmania are already the lowest in Australia. (See Figure 1 in Attachment A.)

### **Electricity prices—impact of ACT Government policies**

*Question:* What impact has ACT Government initiatives had on the regulated retail electricity prices in the Commission's 2018-19 determination?

- What effect has the small and large scale feed-in-tariff programs had on this determination?
- What effect do regulation costs imposed on energy retailers by the ACT Government have on electricity price rises?

*Possible answer:*

The ACT Feed-in-tariff (FiT) scheme costs for large scale and small scale generation are part of the network costs determined by the AER.

The FiT costs contributed 6.5 per cent of ActewAGL Retail's total electricity costs calculated by the Commission for 2018–19 in relation to small customers on standing offer tariffs.

Total FiT costs decreased from 2017–18 to 2018–19 (from \$55.88m in 2017-18 (actual) to \$47.56m in 2018-19 (forecast)). The AER noted that this decrease is due to some timing issues in recovering FiT costs. The percentage contribution of FiT costs to the maximum price change of 14.29 per cent for 2018–19 is marginal and negative.

The ACT Government's Energy Efficiency Improvement Scheme (EEIS) places a mandatory obligation on all retailers in the ACT to promote energy efficiency measures by households and small businesses. The EEIS costs contributed \$4.11 per MWh (or 1.6 per cent) of ActewAGL Retail's total electricity costs calculated by the Commission for 2018–19 in relation to small customers on standing offer tariffs.

ActewAGL Retail's EEIS compliance costs decreased from 2017–18 to 2018–19 (by 1.14 per cent). The contribution of EEIS costs to the maximum price change of 14.29 per cent for 2018–19 is therefore negative (-0.02 percentage points).

### **Icon Water's CSA with ActewAGL**

*Question:* Did the Commission assess the efficiency and prudence of the Corporate Services Agreement (CSA) between Icon Water and ActewAGL Distribution?

*Possible answer:*

Icon Water outsources a number of functions to ActewAGL Distribution under the Corporate Services Agreement (CSA). The CSA was formed in 2012 and, in the absence of negotiated renewal, the contract is to expire in 2023.

The CSA defines 'business as usual' services to be provided by ActewAGL Distribution to Icon Water for an annual fee and for any additional requested services at additional fees. The business as usual services include accounts payable, business systems, Oracle support, property and security, human resources, networks, regulatory affairs and pricing, treasury, tax, accounting, procurement, internal audit, legal services, records management, publications, risk management, environment, health, safety and quality.

The Commission considered the CSA arrangements during its water and sewerage services price investigation for 2018-23. The Commission considered that the contractual arrangements had been made on commercial terms and that it is well-accepted regulatory practice to recognise pre-existing contractual arrangements.

The Commission noted the findings of its consultant Calibre that identified corporate knowledge retention and long term system ownership as potential issues arising as a consequence of the outsourcing arrangement under the CSA. Icon Water's Business Transformation Plan addresses some of these issues.

Calibre did not recommend any adjustments to the CSA costs included in Icon Water's proposed operating expenditure for the 2018-23 regulatory period. However, Calibre recommended a \$2.1m total reduction in Icon Water's proposed regulatory costs over the regulatory period, in part because Icon Water's regulatory services are provided through the CSA with ActewAGL and should not require additional costs to Icon Water. The Commission accepted Calibre's recommended adjustment of \$2.1m in nominal value to bring Icon Water's operating expenditure towards a prudent and efficient value.

In regard to the next regulatory period from 1 July 2023, Icon Water has advised that its submission to the Commission's next price investigation will detail its review of the CSA. The Commission notes the timing of the CSA renewal negotiation precedes the

Commission's 2023 price investigation. The Commission anticipates Icon Water will address the issues identified by Calibre in the Commission's 2018 price investigation and make a clear case for any continued arrangement, which may include market testing of contract elements.

(Note that the arbitrator appointed by the Legislative Assembly accepted that much of the CSA is commercially sensitive and should not be released but decided that the list of services in Schedule 2 should be made public. See Attachment C for excerpts from Icon Water's website on the CSA.)

### **Water tariff structure changes and incentives to use water efficiently**

*Question:* Much of eastern Australia is drought affected, the ACT is coming into another hot summer, and Canberra's population is growing. How will the rebalancing of the tariff structure implemented in the Commission's final decision on water and sewerage services pricing for 2018-23 affect consumers' incentives to continue to use water efficiently?

*Possible answer:*

The Commission's final decision was to:

- retain the existing water tariff structure, with a fixed supply charge and a two-tier inclining block usage charge for the forward regulatory period
- decrease the Tier 1 usage price from \$2.68 to \$2.43 per kL and then adjust for changes in the Consumer Price Index (CPI) and any pass-through amounts approved as part of the annual price reset mechanism during the forward regulatory period
- decrease the current Tier 2 usage price of \$5.38 to \$4.88 per kL in 2018–19 and then adjust it for changes in the CPI and any pass-through amounts approved as part of the annual price reset mechanism
- accept Icon Water's proposal to increase the fixed supply charge in a gradual manner, by \$20 a year to \$200 by 2022–23.

Icon Water's water tariff structure comprises one fixed (supply) and two variable (usage) cost tiers. The inclining block tariff structure was in place during the Millennium Drought that affected south-east Australia from about 1997 to 2009. The shortage of water in this period led to implementation of temporary water restrictions, permanent water conservation measures and a relatively high usage charge for the higher tier. At the time this structure was viewed as providing a price signal to conserve water, while ensuring that some water was available at a lower charge to meet essential needs.

The ACT's water supply and demand balance today is different. Current evidence suggests that the ACT is more water secure, both currently and over the long term, as a result of lower average consumption and increased storage capacity, taking into account expected population growth in the medium term.

In its June 2018 decision on water and sewerage prices for the regulatory period 2018-23, the Commission implemented a modest and gradual rebalancing of the

tariff structure, taking into account the pricing principles developed in the 2016-17 tariff review, Icon Water's pricing proposal and submissions received during the price investigation (which supported the proposed prices).

The small rebalancing between fixed and usage charges better reflects Icon Water's underlying cost structure while continuing to balance the Commission's economic efficiency, social and environmental objectives. The Tier 1 charge of \$2.43 per kL and Tier 2 charge of \$4.88 per kL in 2018-19 continue to provide a strong incentive for consumers to use water efficiently, in conjunction with ongoing permanent water conservation measures and consumer education programs.

### **CDS—cost of Commission's price monitoring and impact on beverage prices**

*Question:* How will monitoring and reporting costs incurred by the ICRC from this scheme be recovered? What effect will the monitoring and reporting of this scheme have on beverage prices?

*Possible answer:*

The Commission will receive \$300,000 of funding for monitoring and reporting on the Container Deposit Scheme. This funding is being provided under a Service Level Agreement between the Commission and Transport Canberra and City Services (TCCS). TCCS recovers a Scheme Compliance Fee from the ACT Container Deposit Scheme Coordinator for administration costs associated with the Scheme.

Beverage suppliers will be charged a fee per container supplied to fund the 10 cent refund and the handling and administration costs of the scheme. Administration costs include the Scheme Compliance Fee recovered by TCCS. Beverage suppliers can recoup the fees paid to fund the scheme through beverage prices.

Following the introduction of the scheme, there may be a small increase in the cost of bottled drinks which are part of the scheme. Beverage consumers can return eligible containers for a 10 cent refund.

### **Consumer protection code review—2016-17 PAC recommendations**

*Question:* The PAC Report on Annual and Financial Reports 2016-2017 recommends that the ACT Government ensure that the consumer protection code administered by the Commission be amended so that:

- compensation is paid to electricity consumers in instances where there are multiple interruptions to electricity supply over a nominated period of time, and
- compensation is automatically paid to electricity consumers by electricity suppliers in instances where interruptions to supply meet criteria for compensable interruptions to supply.

The PAC report refers to Senior Commissioner Dimasi's comment that 'the code needs review and those issues need to be addressed'; and that the code was presently under review by the ICRC.

What progress has the Commission made in reviewing and amending the code?

*Possible answer:*

The ICRC is currently reviewing the Consumer Protection Code. The ICRC expects to release an issues paper in November 2018, with the aim of completing its review in mid-2019.

In considering the scope of issues for the review, the ICRC has considered arrangements for system reliability payments and current approaches to other consumer protections in other jurisdictions and has undertaken targeted consultation with key stakeholders, including consumer groups and the regulated businesses.

### **Consumer protection code review—additional regulatory burden of state/territory obligations**

*Question:* In June this year, the ACCC released its final Retail Electricity Pricing Report. In regard to the National Energy Customer Framework (NECF), the ACCC found that additional regulatory obligations imposed by state and territory jurisdictions was leading to increased complexity and cost. The ACCC recommended that jurisdictions should seek to harmonise with the national framework and limit jurisdictional regulations to jurisdiction-specific characteristics that cannot be addressed by NECF-wide rules.

Similarly, reports by the Australian Energy Market Commission (AEMC) and Independent Pricing and Regulatory Tribunal (IPART) also found that differences in regulation across jurisdictions can lead to increased cost and create a potential barrier to entry for new retailers.

How will the ICRC ensure that the ACT consumer protection code does not impose unreasonable regulatory costs on energy retailers that increase prices for consumers and reduce competition?

*Possible answer:*

The purpose of the review is to ensure the ACT's Consumer Protection Code remains appropriate, taking into account current and emerging utility consumer protection issues. The Commission will balance a number of considerations, including: ensuring consumer protections are adequate; minimising regulatory compliance burden; and customers' willingness to pay for any increased protections. In undertaking the review, the Commission will be guided by its objectives under the *Utilities Act 2000*, including:

- to encourage the provision of safe, reliable, efficient and high quality utility services at reasonable prices;
- to minimise the potential for misuse of monopoly power in the provision of utility services;
- to promote competition in the provision of utility services;
- to protect the interests of consumers; and

- to ensure that advice given to the Commission by the ACAT is properly considered.

In addition, specific objectives of the review and Code redraft include ensuring that:

- where possible and appropriate, the Code complements the National Electricity Customer Framework;
- the Code is accessible and easy to understand by all stakeholders; and
- proposed Code changes do not discourage retail energy competition in the ACT.

The Commission will consult extensively on the issues for the review and any proposed changes to the Code, including through an issues paper (to be released in November) and a draft report and draft Code.

### **Water and Sewerage Capital Contribution Code**

*Question:* What impact has the introduction of the Water and Sewerage Capital Contribution Code had on the costs of development in the ACT?

*Possible answer:*

On 8 December 2017 the Commission released its final determination on the Water and Sewerage Capital Contribution Code proposed by Icon Water.

The Commission accepted the need for a Capital Contribution Code. The Commission considers the Code represents a fairer and more transparent way of charging for infrastructure upgrades than the previous arrangement whereby upgrades were charged to the development triggering the upgrade (referred to as the 'last person standing'). The Code replaced this arrangement by moving to a charge on all new developments within established suburbs that will result in a net increase in network demand. Under the Code, 50 per cent of the upgrade cost is recovered through new customers, with the remaining costs recovered through general tariffs.

The Code took effect from 1 January 2018, with an 18 month transition period for properties purchased prior to the commencement date.

The charge and associated projects are subject to annual review by the Commission. Effective from 1 July 2018, the Commission approved an update to the Precinct Map to include areas that had been added since the original map was released. There was no change to the charge.

### 3. Resourcing of the Commission

#### Staffing

The following table shows the Commission’s workforce profile as at 30 June 2018.

Table 1 2017–18 Workforce profile<sup>1</sup>

EBA Classification	Male	Female	Total
ASO3	1	1	2
ASO4			
ASO5	2	1	3
ASO6			
SOGC		1	1
SOGB	1	1	2
SOGA	2		2
Total	6	4	10

Note: The table does not include senior executive positions.

There were no staff on Attraction and Retention Initiatives (ARins), Special Employment Arrangements (SEAs) or Australian Workplace Agreements (AWAs) in 2017–18. Around one-third of staff identified as being from culturally or linguistically diverse backgrounds. The Commission does not publish further details on reportable data including length of service and age, as such details may, due to the small number of Commission staff, identify individual staff, making it difficult to protect staff privacy.

As at 12 November 2018, the Commission has 11 staff (excluding the senior executive), of which 7 are female and 4 are male. Three are on contracts—an intern who started on 12 November on a 6 week internship, one on a temporary contract to assist with a specific project, and one who does not meet the citizenship or permanent residency requirements for permanent appointment to the ACTPS.

The Commission’s work is highly technical, requiring a good understanding of regulatory economics, financial and economic modelling, regulatory law and regulatory policy. The Commission’s staff has expertise covering these key skill areas, with several staff having advanced postgraduate qualifications in economics and in law. Staff also have experience in regulation and economic policy.

During 2016–17, the Commission recruited qualified and experienced staff to fill a number of vacancies, and this has allowed the Commission to build its expertise and to successfully manage the heavy workload experienced over 2017–18.

Supporting its recruitment activities, the Commission has focussed on more effectively managing its cyclical work program to avoid placing undue pressure on staff in meeting the deadlines associated with the Commission’s decision-making

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<sup>1</sup> The table does not include senior executive positions.

responsibilities. Typically, the Commission's workload has been periodic with peaks and troughs following the pattern of the regular investigations into determining prices for the utility services it regulates. The Commission has worked to smooth out, where possible, the peaks and troughs in its work and provide a more stable workload.

An example of this approach is the Commission's decision to conduct a review during 2018–19 of the retail electricity pricing model and methodology used to make a determination for standing offer prices for the electricity services provided to small residential and business customers.

This approach has two significant benefits. First, regulatory processes are improved by providing greater time and scope for stakeholders, the regulated businesses and the broader community to be involved, submit information, and contribute their views on whether and how the approach to regulation should be modified. This also allows sufficient lead time to implement any changes to the regulatory approach.

Second, the approach supports the Commission's efforts to establish and maintain a deeper pool of expertise that is available to respond to government requests for advice, by giving staff a more stable career path and thereby improving staff retention. The ACT Government's request that the Commission monitor and report on the impact on ACT beverage prices and competition in the ACT beverage industry of the introduction of the ACT Container Deposit scheme is an example of using the Commission's expertise in meeting the needs of the ACT community.

## **Financial accounts**

### *Expenditure*

2017-18: Total expenditure was \$2.359 million. The main components were: employee expenses of \$1.310 million (55.5 per cent); and supplies and services of \$0.842 million (35.7 per cent).

2018–19: Total expenditure is expected to decrease to \$2.152 million due to the Commission completing in 2017–18 the investigation into, and price direction for, regulated water and sewerage services. This decrease will be partially offset by costs associated with: the Commission's review of its electricity pricing model and methodology; and its inquiry to monitor ACT beverage prices and competition following the introduction of the ACT's Container Deposit Scheme.

### *Income*

2017-18: Total income was \$2.411 million, the main components of which were:

- user charges of \$1.651 million (68.5 per cent) for the water and sewerage services price investigation (\$1.191m), the SLA with CMTEDD (\$0.404m) and the CDS monitoring inquiry (\$0.056m);
- fees of \$0.380 million (15.8 per cent) for water, sewerage and gas transmission regulatory activities under the Utilities Act; and
- controlled recurrent payments of \$0.350 million (14.5 per cent) for the Commission's energy industry regulatory activities.

2018–19: Total income is expected to decrease to \$1.980 million due to the Commission completing in 2017–18 the water and sewerage price investigation, partially offset by the Commission receiving funding for its electricity pricing model and methodology review and for the CDS price monitoring inquiry.

*Question:* Does the Commission have sufficient resources to undertake its functions effectively?

*Possible answer:*

The Commission is largely funded through user charges (the levy and licence fees) paid by the regulated industries. In addition, the Commission may receive funding to undertake inquiries under terms of reference given to it by the Territory Government.

In the 2018-19 Budget, the Commission received additional funding (\$525,000 in 2018-19 and \$181,000 in 2019-20) to review its electricity pricing model and methodology to ensure retail electricity prices are not higher than reasonably justified. In addition, the Commission will receive \$300,000 in funding from the Territory Government for monitoring and reporting on the Container Deposit Scheme.

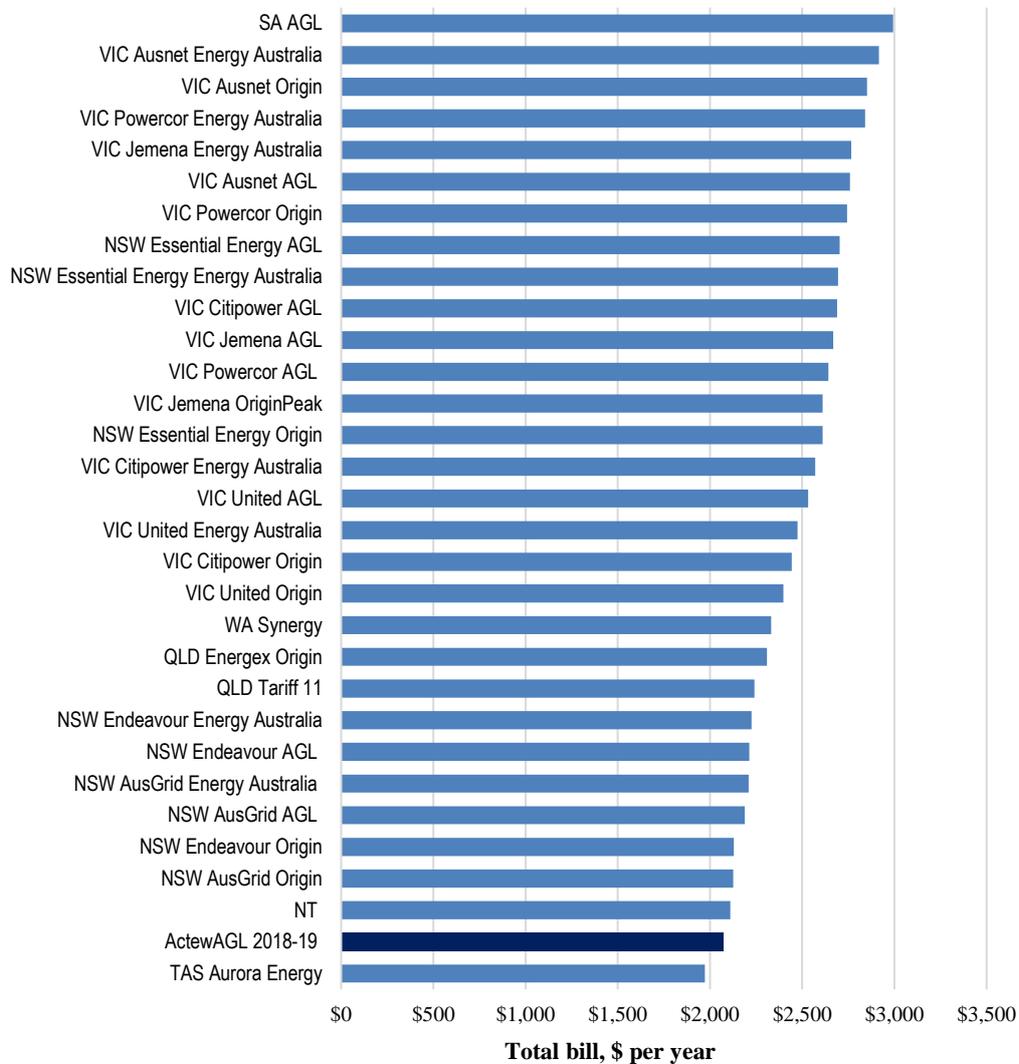
The Commission's current ratio of 6.5:1 at 30 June 2018 indicated a strong financial position. It is necessary for the Commission to maintain a high level of liquidity due to the cost recovery model it principally operates under, where significant expenditure can be required to perform an activity and those costs may not be recovered for an extended period of time.

### **Audit report**

The ACT Audit Office's report of factual findings gave an unqualified review opinion on the Commission's financial statements and statement of performance for the year ended 30 June 2018.

## Attachment A: Regulated retail electricity price increase, 2018-19

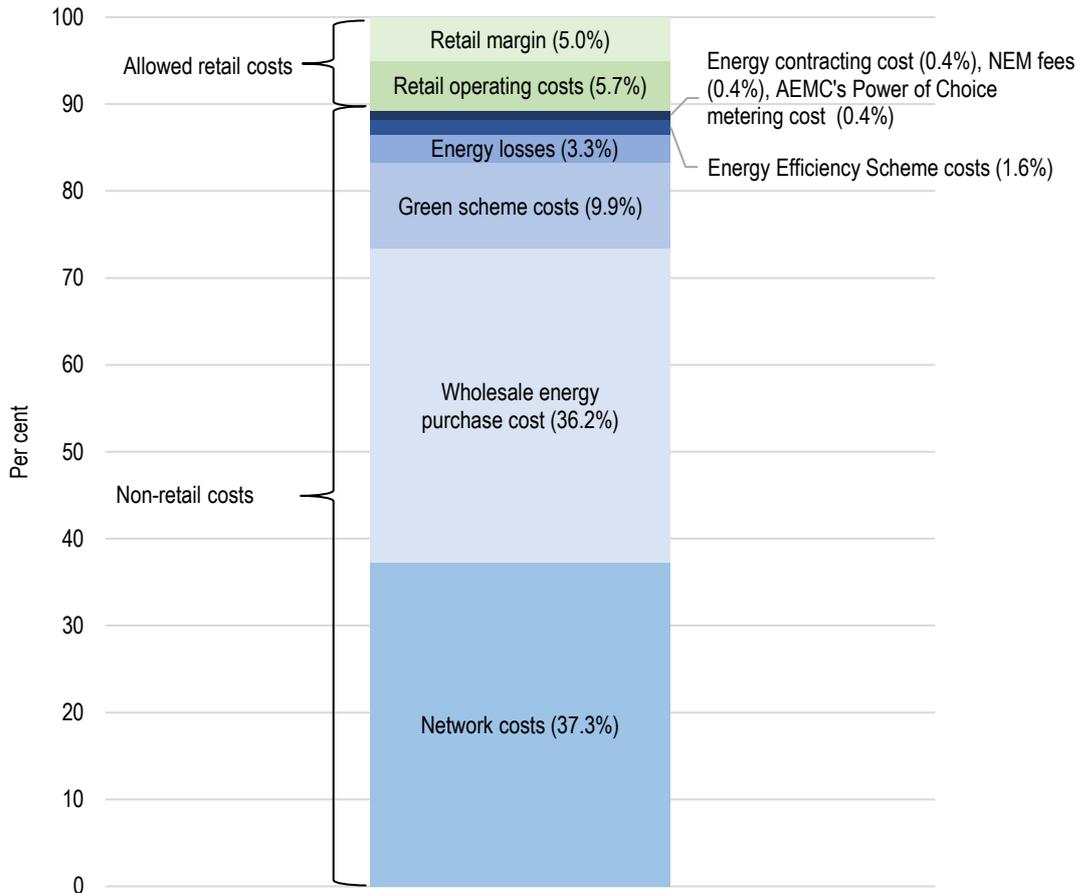
**Figure 1 Comparison of residential standing offer electricity bills across jurisdictions based on annual consumption of 7,500 kWh**



Notes: All prices as at 1 June 2018. Refer to OTTER (2018) for further information on the calculation method. The average ActewAGL 2018–19 bill is based on the Commission’s assumption that all retail prices in the regulated basket of tariffs are increased by 14.29 per cent.

Source: OTTER (2018) and Commission’s calculations.

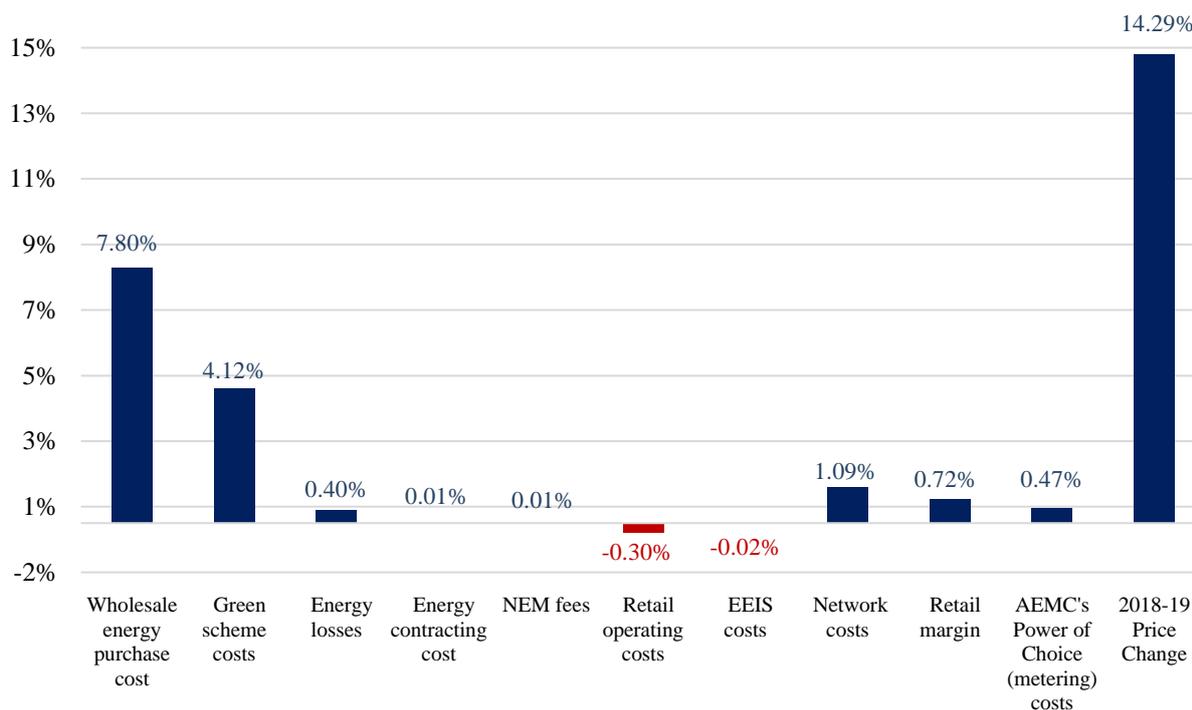
Figure 2 Cost components as a share of total cost 2018–19



Source: Commission's calculations

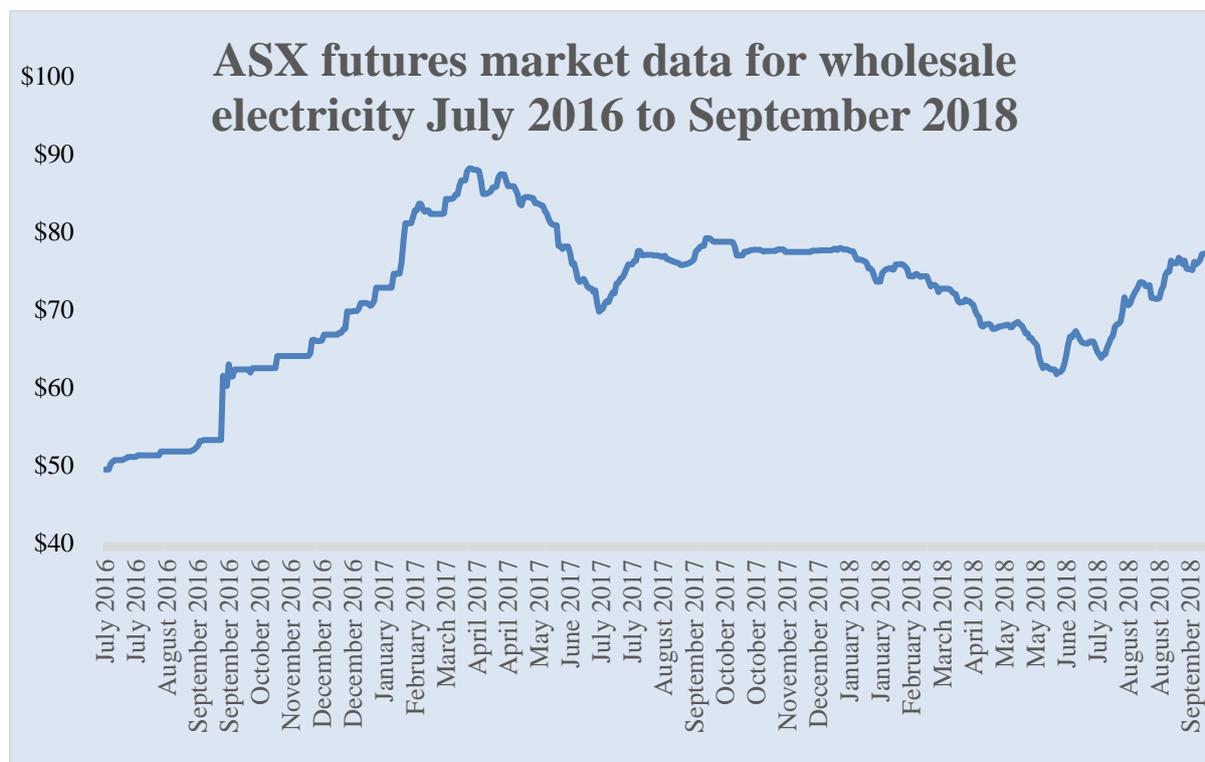
Note: For ease of comparison with other components of the model, the Commission has calculated implied Feed-in tariff (FiT) costs based on the assumption that FiT costs as a percentage of total jurisdictional costs do not vary with customer type, regulated and non-regulated, using data as reported in Evoenergy (2018).

Figure 3 Components of the change in regulated retail electricity prices from 2017–18 to 2018–19



Source: Commission's calculations.

Figure 4 ASX futures market data for wholesale energy prices, July 2016 to September 2018 (\$/MWh)



Source: Commission's calculations based on ASX data.

## Attachment B: Regulated water and sewerage services prices and bills, 2018-23

**Table 1** The Commission's final decision on water and sewerage services tariffs, 2018–19 to 2022–23

	2018–19	2019–20	2020–21	2021–22	2022–23
<b>Water tariffs</b>					
Supply charge (\$/pa)	120.00	140.00	160.00	180.00	200.00
Tier 1 price (\$/kL)	2.43	2.45	2.48	2.50	2.52
Tier 2 price (\$/kL)	4.88	4.93	4.97	5.02	5.07
<b>Sewerage services tariffs</b>					
Sewerage services charge (\$/pa)	531.19	531.20	531.20	531.21	531.21
Sewerage fixtures (\$/pa)	519.50	519.50	519.51	519.51	519.52

Source: ICRC (2018) Final report – Regulated water and sewerage services prices 2018–23, pages: 147–148, available at <http://www.icrc.act.gov.au/wp-content/uploads/2016/03/Report-1-of-2018-Final-Report-Water-Sewerage-Services-2018-23.pdf>.

**Table 2** Expected annual bills for typical small and large households, 2018–19 to 2022–23

Water consumption		2017–18*	2018–19	2019–20	2020–21	2021–22	2022–23
200kL per year	Annual bill (\$)	1,200	1,158	1,183	1,208	1,232	1,257
	\$ change		-42	25	25	25	25
	Percentage change		-3.5	2.1	2.1	2.1	2.0
400kL per year	Annual bill (\$)	2,254	2,114	2,148	2,182	2,216	2,250
	\$ change		-140	34	34	34	34
	Percentage change		-6.2	1.6	1.6	1.6	1.5

Notes: \*Data for 2017–18 (last year of the current regulatory period) are presented for comparison purposes. Actual bill impacts from 2019–20 to 2022–23 could differ from the indicative impacts in this table if actual inflation differs from forecast inflation or if the cost pass through mechanism is triggered.

**Table 3** Comparison of combined water and sewerage services bills of Australian water utilities, assuming residential consumer with 200kL a year consumption (\$, nominal)

	Actual (2017–18)	Estimates (2018–19)	Notes
Sydney Water	1,096	1,132	d
Barwon Water	1,097	1,124	a,c
Hunter Water	1,130	1,185	d
SA Water (Adelaide)	1,149	1,177	a,c
TasWater	1,166	1,214	b
<b>Icon Water</b>	<b>1,200</b>	<b>1,158</b>	
South East Water	1,243	1,152	a,c
City West Water	1,270	1,301	a,c
<b>Average</b>	<b>1,276</b>	<b>1,285</b>	
Yarra Valley Water	1,392	1,311	b,c
Queensland Urban Utilities	1,487	1,524	a
Unitywater – Moreton Bay	1,811	1,857	a

Notes: a Indexed assuming inflation of 2.5 per cent from 2017–18. b: Based on Draft Determination. c: Victorian Government rebate applied but not parks and waterways charges. d: 2018–19 figures based on IPART determination (in 2015–16 values) adjusted by the CPI by the Commission.

Sources: Commission's calculations and utility and regulator websites.

## Attachment C: Extracts from Icon Water’s website on CSA with ActewAGL

### Corporate and Customer Services Contracts (excerpt from webpage)

#### Background

Icon Water has two contracts with ActewAGL in relation to corporate and customer services, named the Corporate Services Agreement (CSA) and Customer Services and Community Support Agreement (CSCSA).

This page provides an explanation of the corporate and customer services contracts so our customers and community can understand this part of our business. This page excludes some details of the contracts which remain confidential between the parties, for legal and commercial reasons.

This page also provides:

- An overview of the history of provision of water, electricity and gas services in the ACT.
- The evolution of contractual arrangements for the provision of corporate and customer services provided to the water, electricity and gas businesses.
- Information regarding the range of bodies which currently provide independent oversight and which support transparency and accountability of Icon Water’s business operations.

#### Long history of arrangements

The current services contracts between Icon Water and ActewAGL are the most recent in a long history of arrangements for sharing the delivery of services in the context of utility services. This recognises the natural synergies that exist between the utilities.

The provision of water and electricity services in the ACT have been linked since 1988 when the ACT Electricity and Water Authority (ACTEWA) was established. The reasons given for the creation of this authority included recognition of the value of shared corporate, customer and other services in the delivery of the various utility services. In 2000, gas services also combined with water and electricity when the ActewAGL joint venture was formed.

#### History of corporate services provision since 2000

Since the formation of the ActewAGL joint venture in 2000, there has been a series of agreements relating to the provision of corporate and customer services between the parties. The key agreements are outlined below.



#### Water and Sewerage Managing Contractor Alliance Agreement

The Managing Contractor Alliance Agreement (MCAA) was established between ActewAGL and ACTEW Corporation Limited (now named Icon Water Limited) in 2000. It sets out the alliance principles by which Icon Water engaged ActewAGL to manage and operate Icon Water’s water business, including the operation and maintenance of Icon Water’s water and sewerage networks. The MCAA was entered into with the specific intention to be replaced with a longer-term, performance

based outsourcing agreement once the costs and risks of the water and sewerage operations by the joint venture had been established.

### Utilities Management Agreement

The Utilities Management Agreement (UMA) was the contract established between ActewAGL and Icon Water in 2004, to replace the MCAA. The UMA provided for ActewAGL to operate and maintain the water and sewerage networks owned by Icon Water. This also included the provision by ActewAGL to Icon Water of certain corporate and customer services.

The term of the UMA was aligned to the regulatory period during which price directions are set by Icon Water’s economic regulator (the Independent Competition and Regulatory Commission (ICRC)). The UMA had an expiry date of 30 June 2023. This agreement remained in place until the water and sewerage operations were internalised back into Icon Water in 2012.

### Corporate Services Agreement

The Corporate Services Agreement (CSA) was entered into between ActewAGL and Icon Water in 2012 when responsibility for the operation and maintenance of the water and sewerage networks was internalised back into Icon Water. The CSA sets out the arrangements for the provision of corporate services to Icon Water. The CSA allowed for the continuation of the services provided to the water business until 2023.

### Customer Services and Community Support Agreement

The Customer Services and Community Support Agreement (CSCSA) was entered into between ActewAGL and Icon Water in 2012 when responsibility for the operation and maintenance of the water and sewerage networks was internalised back into Icon Water. The CSCSA sets out the arrangements for the provision of customer and community support services to Icon Water. The CSCSA allowed for the continuation of the services provided to the water business until 2023.

## Independent Competition and Regulatory Commission

Under the *Independent Competition and Regulatory Commission Act 1997* (ACT) the Independent Competition and Regulatory Commission (ICRC) sets prices for water and sewerage services in the ACT. In undertaking this role, the ICRC has objectives that relate to promoting effective competition and balancing efficiency considerations with environmental and social considerations. The ICRC’s periodic and detailed reviews of Icon Water’s operating costs seek to examine whether expenditure is prudent and efficient. This review specifically includes assessment of the operating costs payable by Icon Water under the corporate and customer services contracts. The ICRC is supported in this review by expert external consultants.

### The corporate and customer services

The corporate and customer services include unique support activities and services required for running a utility. There are a range of services within the corporate and customer services contracts, including those listed below:

Corporate Services	Customer Services and Community Support Services
<ul style="list-style-type: none"> <li>Information communications technology (ICT) physical hardware, computer software systems and supporting technical services</li> <li>Emergency contact centre</li> <li>Economic regulatory services</li> </ul>	<ul style="list-style-type: none"> <li>Meter reading</li> <li>Customer billing</li> <li>Customer account management</li> <li>Customer contact centre</li> <li>Accounts receivable and credit management</li> </ul>

- Human resource services
- Tax
- Treasury
- Accounts payable
- Procurement
- Warehouse management
- Fleet management
- Property and security
- Legal services
- Accounting
- Customer data storage and protection
- Community communications
- Corporate communications
- Sponsorships

### Future of corporate and customer services provision after 2023

The current contracts expire in 2023.

In preparation for and well in advance of this date, Icon Water will assess its ongoing service requirements and options. Future decisions regarding corporate and customer services will involve assessment of various service delivery arrangements in accordance with Icon Water’s procurement framework.

A key focus for Icon Water will be to ensure that we can maintain access to the support activities and services required to operate our business efficiently and effectively, so that we can continue to provide high quality affordable water and sewerage services to our customers.

### Corporate and Customer Services Contract Obligations (separate webpage)

This section describes those aspects of Icon Water’s corporate and customer services contracts with ActewAGL that are not confidential or commercially sensitive.

It is important that Icon Water respects sensitive information such as the personal information of our customers and the commercial information of those with which we do business. Our processes ensure that we act with integrity and provide our customers and contracted service providers with the confidence that their information is protected. Maintaining confidentiality also ensures our stringent procurement practices can be followed without any contractors having an unfair advantage.

For these reasons, we have not published the commercially sensitive details of our corporate services contracts, so we can approach an open field of tenderers as the expiry of the contracts approaches.

#### Obligations of ActewAGL

In providing the services, ActewAGL is required to comply with overarching obligations such as:

- acting honestly and in accordance with good industry standards and applicable laws
- exercising reasonable care, diligence and skill and perform in a timely and professional manner
- giving no less priority to Icon Water than ActewAGL gives itself.

#### Obligations of Icon Water

Icon Water has obligations to enable ActewAGL to deliver the services, such as:

- providing information reasonably required by ActewAGL to perform the services
- providing reasonable assistance in relation to ActewAGL’s compliance with legal requirements affecting the services

- respond to ActewAGL’s requests for instructions or information in a timely and professional manner
- on reasonable notice, allowing any ActewAGL personnel to have access to Icon Water premises.

### **Monitoring progress and performance**

Icon Water has in place a number of mechanisms for the ongoing oversight and management of the corporate and customer services contracts. These include executive-level contract governance groups which meet quarterly to discuss issues in relation to the contract or the provision of services. ActewAGL provides quarterly performance reports to Icon Water.

This is in addition to the regular officer-level interactions which take place in the day-to-day delivery of the services.

### **Confidentiality**

The contracts provide for the protection of confidential information. Neither party may disclose the confidential information of the other party (subject to limited exceptions) without the other party’s prior written consent.

### **Protection of personal information**

The contracts also put in place mechanisms to protect the personal information of our customers which may be required by ActewAGL to provide the services (such as the customer billing services under the CSCSA). ActewAGL must comply with the privacy principles and protect all personal information held by it on Icon Water’s behalf from misuse, loss, unauthorised access or disclosure.

### **Audits relating to the contract services**

The contracts permit audits to be conducted in relation to the delivery of the services.

Icon Water undertakes an internal audit program as part of its internal audit strategy to help Icon Water to learn from the past, respond to the present and prepare for the future. Where the scope of any audit relates to services or activities under the services contracts, the performance of those services or activities are included in the audit. In mid-2018 Icon Water undertook a review of the services contracts. The internal audit was undertaken by a member of our internal audit panel of service providers. A summary of the key audit findings can be found [here](#).

### **Insurance**

ActewAGL is required to maintain and enforce a range of insurance policies including public liability, professional indemnity and workers' compensation insurance.

Copies of the contracts (excluding some details which remain confidential between the parties for legal and commercial reasons) are available [here](#): corporate agreement, customer agreement.

# INDEPENDENT COMPETITION AND REGULATORY COMMISSION – STATEMENT OF INTENT

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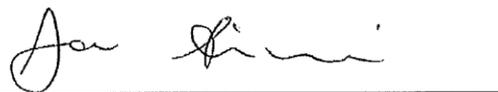
The Independent Competition and Regulatory Commission (the Commission) is a Territory Authority established under the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act). The Commission is constituted under the ICRC Act by one or more standing commissioners and any associated commissioners appointed for particular purposes. Commissioners are statutory appointments. The current Commissioner is Senior Commissioner Joe Dimasi who has direct responsibility for delivery of the outcomes that are foreshadowed in this Statement of Intent.

This Statement of Intent for 2018-19 has been prepared in accordance with Section 61 of the *Financial Management Act 1996*.

The responsible Minister, Mr Andrew Barr MLA, was consulted during the preparation of the Statement of Intent.

The Statement of Intent, which focuses on the 2018-19 Budget year, has been developed in the context of a four year forward planning horizon to be incorporated, as far as practicable, into the Independent Competition and Regulatory Commission's strategic and business planning processes.

The Independent Competition and Regulatory Commission 2018-19 Statement of Intent has been agreed between:



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**Joe Dimasi**

**Senior Commissioner**



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**Andrew Barr MLA**

**Treasurer**

## INDEPENDENT COMPETITION AND REGULATORY COMMISSION

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As a result of the 2015 amendments to the *Financial Management Act 1996* (FMA), the budget statement for the Commission is its Statement of Intent.

### Purpose

The Commission has responsibilities for a broad range of regulatory and utility administrative matters. The Commission is responsible under the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act) for regulating and advising government about pricing and other matters for monopoly, near-monopoly and ministerially declared regulated industries, providing advice on competitive neutrality complaints and government-regulated activities, and arbitrating infrastructure access disputes under the ICRC Act.

The Commission's objectives are set out in sections 7 and 19L of the ICRC Act and section 3 of the *Utilities Act 2000* (Utilities Act). Those objectives are:

- promoting effective competition in the interests of consumers;
- facilitating an appropriate balance between efficiency, environmental and social considerations;
- ensuring non-discriminatory access to monopoly and near-monopoly infrastructure; and
- when making a price direction in a regulated industry, to promote the efficient investment in, and efficient operation and use of regulated services for the long term interests of consumers in relation to price, quality, safety, reliability and security of the service.

The Utilities Act provides for the licensing of electricity, natural gas, water and sewerage utility services. In discharging responsibilities under this legislation, the Commission's objectives are to:

- encourage the provision of safe, reliable, efficient and high-quality utility services at reasonable prices;
- minimise the potential for misuse of monopoly power and promote competition in the provision of utility services;
- encourage long term investment, growth and employment in utility services; and
- protect the interests of consumers.

## Nature and scope of activities

### General activities

In discharging its responsibilities under its enabling legislation the Commission conducts the following activities:

- Water and sewerage services pricing arrangements
  - As a regulated industry under the ICRC Act, prices for water and sewerage services in the ACT are determined by the Commission, or if reviewed and determined by an Industry Panel, are implemented by the Commission.
  - The Treasurer tabled in the Legislative Assembly on 13 December 2016 the terms of reference for the making of a price direction for regulated water and sewerage services for the period 1 July 2018 to 30 June 2023. A draft decision was issued on 12 December 2017 and the final report was released on 1 May 2018.
- Retail electricity pricing arrangements
  - From 1 July 2012 a number of responsibilities for regulating retail electricity were transferred to the Australian Energy Regulator (AER), but responsibility for technical regulation, complaints handling and retail electricity pricing remained with state and territory governments. The Commission will, pursuant to ACT government policy, continue to determine retail prices for franchise electricity customers. The Commission released its final decision on retail electricity prices for small customers on standard offer contracts on 7 June 2017. That decision set the average annual increase in retail prices of electricity supplied to small customers on standard retail contracts for the period 1 July 2017 to 30 June 2020, subject to an annual adjustment for any pass-through events.
  - The Commission will make a decision in June 2018 on any adjustment relating to the 2018-19 regulated retail electricity prices due to pass-through events. It will make a decision in June 2019 on any adjustment to 2019-20 prices due to pass-through events.
  - During the 2017-20 regulatory period, the Commission will review its pricing model and methodology to ensure the method used in arriving at a price direction remains current, accurate and consistent with the Commission's obligations under the ICRC Act. Any changes to the model will be implemented in the regulatory period after 30 June 2020.
- Competition policy
  - In April 2018 the Minister for Transport Canberra and City Services requested the Commission to monitor and report on the impact on ACT beverage prices and competition in the beverage industry of the introduction of the ACT Container Deposit Scheme on 30 June 2018. The Commission will release a progress report in February 2019 and provide a final report in July 2019.

- In 2018-19 the Commission will respond to the ACT Government’s requirements for advice on competition policy matters.
- In 2018-19 the Commission will also continue its role in handling competitive neutrality complaints, as described in the National Competition Policy Agreements and the ACT Competitive Neutrality Statement.
- Utilities regulatory regime
  - The Commission has a statutory responsibility to ensure that utilities authorised to provide services in the Territory comply with their obligations in and arising from licence conditions and industry and technical codes made under the Utilities Act. During 2018-19, the ACT licensing regime will continue to apply to electricity and gas distribution activities and water and sewerage services. The Commission will continue to assess licence applications, maintain the licensing regime, and monitor and report on retail utilities’ compliance with licence conditions.
  - On 8 December 2017, the Commission released its final determination on the application by Icon Water for an industry code covering capital contributions for water and sewerage infrastructure upgrades. The code took effect from 1 January 2018, with an 18 month transition period for properties purchased before that date.
  - In 2018-19 the Commission will continue its work on updating utilities licences, codes and guidelines, including the provisions of the utilities consumer protection code.

## **Risks**

Effective risk management is one of the keys to achieving the Commission’s purpose. Managing risk is a fundamental activity, performed across the Commission.

The Commission has developed an enterprise-wide risk management approach to identifying, managing or mitigating risks. Specific areas of risk include:

- Operational risk
  - Operational risk can arise from internal factors such as people or from inadequate internal processes or systems. Risks can also arise from external events such as non-performance under contracts. The Commission has instituted policies and procedures that manage third-party risk through the evaluation of risk factors, including the performance evaluation of contractors. The Commission is also implementing approaches to mitigate the risks arising from the cyclical nature of the Commission’s work, which creates particular challenges in managing workload and pressure on staff, given the deadlines associated with the Commission’s decision making responsibilities.

- Organisational risk arises due to the sustainability of corporate knowledge and the Commission's small but specialised staff. The Commission faces the ongoing challenge associated with the risk of loss of organisational capacity and knowledge when staff are absent or take up opportunities elsewhere.
- Financial risk
  - Financial risk arises from inadequate cash reserves to meet the Commission's financial commitments. The Commission has appropriate risk management procedures to identify and manage financial risk, including actively monitoring credit risk in areas such as cash and other receivables appropriate to its nature, scale and size.

## **2018-19 priorities and next three financial years**

The Commission's strategic and operational priorities for 2018-19 include:

- Approving the annual adjustment to the regulated price for water and sewerage services for 2019-20 in accordance with the price direction;
- Overseeing the annual adjustment to the pricing determination for retail electricity for small customers on standard retail contracts for 2019-20;
- Reviewing the retail electricity pricing model and methodology that will be used in making a pricing determination for retail electricity for small customers on standard retail contracts in the regulatory period after 30 June 2020;
- Overseeing the regulatory regime established under the Utilities Act, including licensing, industry code development, a redraft of the consumer protection code and compliance monitoring and reporting on utility compliance and performance;
- Recovering annual utility licence fees and administering the annual energy industry levy;
- Monitoring and reporting on the impact of the introduction of the ACT Container Deposit Scheme on beverage prices and competition in the ACT beverage industry and advising the Minister on any unfair or unjustified behaviour or market outcomes; and
- Responding to the Government's requirements for advice on competition policy matters, and discharging the Commission's statutory role in competitive neutrality complaints handling.

The strategic and operational issues to be pursued in the following three financial years include:

- Undertaking the annual adjustment to regulated water and sewerage services prices for the financial years 2020-21, 2021-22 and 2022-23;
- Undertaking the necessary research and analysis in respect of the regulatory reset principles in relation to water demand forecasting, incentives mechanisms and the

method for calculating the allowed rate of return on investments well in advance of the next price investigation into regulated water and sewerage prices;

- Responding to any terms of references issued by the Government in relation to undertaking a pricing investigation for the determination of the price of electricity for small customers for the regulatory period applying from 1 July 2020;
- Overseeing any annual adjustments, including pass-through events, required by a pricing determination for retail electricity for small customers on standard contracts that is made in response to a terms of reference issued by the Government;
- Overseeing the regulatory regime established under the Utilities Act, including licensing, amending existing licences to take account of legislative changes, industry code development, administration of the energy levy and compliance monitoring, and reporting on utility compliance and performance; and
- Responding to the Government’s requests for advice on competition policy matters, and discharging the Commission’s statutory role in competitive neutrality complaints handling.

## Estimated employment level

**Table 2: Estimated employment level**

	<b>2016-17 Actual Outcome<sup>1</sup></b>	<b>2017-18 Budget</b>	<b>2017-18 Estimated Outcome<sup>1</sup></b>	<b>2018-19 Budget</b>
1.				
<b>2. Staffing (FTE)</b>	10	9 <sup>2</sup>	10 <sup>2</sup>	11 <sup>3</sup>

**Note(s):**

1. These figures relate to 30 June staffing levels.
2. The variation between the 2017-18 Budget and the 2017-18 Estimated Outcome is due to the Commission recruiting additional staff to monitor and report on the impact on ACT beverage prices and competition in the beverage industry following the introduction of the ACT Container Deposit Scheme on 30 June 2018.
3. The variation between the 2017-18 Estimated Outcome and the 2018-19 Budget is due to the recruitment of additional staff to review the Commission’s pricing model and methodology to ensure the method used in arriving at a price direction remains current, accurate and consistent with the Commission’s obligations under its Act.

## Key performance indicators for 2018-19 to 2021-2022

**Table 3: Key performance indicators for 2017-18 and 2020-21**

Item	Measure	
	2018-19	2019-20 to 2021-22
Water and sewerage services pricing	Undertaking reviews of matters identified as reset principles. Annual price adjustments.	Undertaking reviews of matters identified as reset principles. Annual price adjustments.
Retail electricity pricing	Price adjustment for 2019-20.	Price determination for regulatory period from 1 July 2020 (subject to terms of reference from Government), and any required price adjustments for the regulatory period. Undertaking reviews of any matters identified as reset principles.
Utilities compliance and performance	1 report.	Annual reports.
Utility licence fees (water, sewerage services, and energy sector utilities not subject to energy industry levy)	Licence fees determination and collection.	Annual licence fee determinations as required and annual collection of licence fee.
Utility levies (energy sector)	3 determinations.	Annual levy determinations as required.
Container Deposit Scheme—price and competition monitoring	1 progress report.	Final report and any advice required on market outcomes or behaviour. Further monitoring if required.
Advice on any additional referred matters	Subject to receipt of references.	Subject to receipt of references.